

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO. 09- 193
v.	*	SECTION: “S “ (1)
WAYNE G. CRESAP	*	VIOLATION: 18 U.S.C. § 371
	*	
*	*	*

FACTUAL BASIS

Should this matter have gone to trial, the government would have proved, through the introduction of competent testimony and admissible tangible exhibits, including documentary evidence, the following to support the allegations charged by the United States in Count 1 of the original bill of information filed in the above-captioned matter.

1) At all times relevant, **WAYNE G. CRESAP**, was a public official holding a high-level decision making position, namely an elected district court judge assigned to Division “C” of the 34th Judicial District for the Parish of St. Bernard, State of Louisiana.

2) At all times relevant, Nunzio S. Cusimano, Jr. (hereinafter “Sal Cusimano”) and Victor J. Dauterive (hereinafter V.J. Dauterive”) were lawyers licensed to practice law within the State of Louisiana.

3) From in or around December, 2004 and continuing through April, 2009, in the Eastern District of Louisiana, and elsewhere, **WAYNE G. CRESAP** and lawyer Sal Cusimano and **WAYNE G. CRESAP** and lawyer V.J. Dauterive did knowingly and willfully devise a scheme and artifice to defraud and to deprive the citizens of the State of Louisiana of the honest and faithful services, performed free from deceit, bias, self-dealing, and concealment of **WAYNE G. CRESAP**, an elected public official, in the performance of his duties as a district court judge for the 34th Judicial District of the State of Louisiana; in violation of Title 18, United States Code, Sections 371, 1343 and 1346.

4) It was part of the scheme and artifice to defraud that Sal Cusimano, **WAYNE G. CRESAP** and V.J. Dauterive used the interstate wire communication facilities for the purpose of carrying out the scheme to release incarcerated individuals on personal surety bonds in exchange for cash. Specifically, throughout the period of the conspiracy, lawyer Sal Cusimano and lawyer V.J. Dauterive were contacted by representatives of individuals being held in St. Bernard Parish prison under a bond obligation that they could not afford. Unable to secure the inmate's release, the representative would contact lawyer Sal Cusimano or lawyer V.J. Dauterive to facilitate the inmate's release. At this point in the scheme, the lawyer, either Sal Cusimano or V.J. Dauterive, would place a telephone call to Judge **WAYNE G. CRESAP** to have the secured bond obligation converted to an unsecured personal surety bond. In exchange for the signature release authority on an unsecured personal surety bond, the incarcerated individual's representative would make a cash payment to the lawyer, either Sal Cusimano or V.J. Dauterive, who would then split the cash payment with Judge **WAYNE G. CRESAP**. Such actions would constitute a violation of Title 14, Louisiana Revised Statute, Section 118 (Public Bribery). By devising this scheme and artifice, which was carried out

over interstate wire communication facilities, the defendant, **WAYNE G. CRESAP**, lawyer V.J. Dauterive and lawyer Sal Cusimano financially benefitted from a discretionary decision made by Judge **WAYNE G. CRESAP** as a public official, thereby breaching his duty to provide honest, faithful and disinterested service to the public, all in violation of Title 18, United States Code, Sections 371, 1343 and 1346.

The Government and the defendant agree that, for sentencing purposes, the Government can prove that the defendant is personally responsible for more than \$70,000 but less than \$120,000 in payments received by lawyers Sal Cusimano and V.J. Dauterive in furtherance of and during the course of the scheme to defraud.

The foregoing facts would be proven by the testimony of agents from the Federal Bureau of Investigations and by the production of various certified documents.

WAYNE G. CRESAP
Defendant

Date

PATRICK FANNING
Attorney for Defendant

Date

RICHARD R. PICKENS, II [22593]
Assistant United States Attorney

Date

BRIAN P. MARCELLE [25156]
Assistant United States Attorney

Date